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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,782	06/07/2001	Christina Banta	10010133-1	8851

24737 7590 03/12/2007
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/876,782

Applicant(s)

BANTA ET AL.

Examiner

Dilek B. Cobanoglu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/07/2001, 06/06/2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to the amendment received 12/14/2006.

Claims 1, 9, 12, 22, and 25 have been amended. Claims 1-28 are still pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-15, 17-24 and 27-28 are rejected under 35 U.S.C. 102(b) as being unpatentable by Seliger et al. (hereinafter Seliger) (U.S. Patent No. 5,546,580).

A. Claim 1 has been amended now to recite a computer-implemented study merging method, comprising:

- i. merging a patient's first medical study with a logically related or similar second medical study to create a composite study (Seliger et al.; col.3, lines 6-23) and,
- ii. reconciling study identifiers of the first and second medical studies (Seliger et al.; col.11, lines 56-67 and col. 12, lines 20-30),
- iii. wherein said merging includes an automatic adding of medical information, according to a protocol attribute, of the first or second medical study into the other medical study in the creating of said composite study. (Seliger et al.; col.5, lines 39-42 and col. 12, lines 7-31).

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B. Claims 2-4, 6-8, 27 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 2-4, 6-8, 27 are rejected for the same reasons given in the previous Office Action (paper number 3-6), and incorporated herein.

C. Claim 9 has been amended now to recite a computer-implemented_study merging method, comprising:

- i. merging a patient's first medical study with a logically related or similar second medical study to create a merged study, (Seliger et al.; col.3, lines 6-8, and col. 12, lines 7-31), such that medically context-specific information stored in at least one of the first and second medical studies is merged based upon a protocol of at least one of the first and second studies, the protocol being indicated by an attribute of at least one of the first and second studies: (Seliger et al.; col.12, lines 1-6)
- ii. saving respective identifiers of the first and second studies (col. 12, lines 1-31):
- iii. deleting a distinct database identity for at least one of the first and second studies (col. 12, lines 1-31): and
- iv. assigning a unique study identifier to the merged study (col. 12, lines 1-31).

C. Claims 10-11 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 10-11 are

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rejected for the same reasons given in the previous Office Action (paper number 6-7), and incorporated herein.

D. The amendment to article of manufacture claim 12 reflects the same changes made to method claim 1, and is therefore rejected for the same reasons given above for method claim 1 in addition to the reasons given in the prior Office Action (paper number 6-7).

E. Claims 13-15, 17-21, 28 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 13-15, 17-21, 28 are rejected for the same reasons given in the previous Office Action (paper number 6-7), and incorporated herein.

F. The amendment to article of manufacture claim 22 reflects the same changes made to method claim 9, and is therefore rejected for the same reasons given above for method claim 9 in addition to the reasons given in the prior Office Action (paper number 6-7).

G. Claims 23-24 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 23-24 are rejected for the same reasons given in the previous Office Action (paper number 6-7), and incorporated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 16, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art.

A. Claims 5 and 16 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 23-24 are rejected for the same reasons given in the previous Office Action (paper number 7-8), and incorporated herein.

B. Claim 25 is now amended to recite a computer-implemented medical study merging method, comprising:

- i. Identifying, in accordance with a lexicon of Digital Imaging and Communication in Medicine (DICOM), a patient's related first and second medical studies to be merged (Seliger et al.; col.12, lines 9-12); and
- ii. merging the first medical study with the second medical study, according to a protocol attribute, (Seliger et al.; col.3, lines 8-18 and lines 20-23) such that a resultant composite study has a study identifier different from at least one of the first and second medical studies (Seliger et al.; col.11, lines 59-65), wherein, in accordance with said lexicon, the merging includes an automatic adding of a series of the second medical study to the composite study (Seliger et al.; col. 5, lines 39-42), the series of the second medical study having a series identifier the same as a pre-merge corresponding series identifier, with the series of the second medical study including at least an artifact with an artifact identifier the

same as a pre-merge corresponding artifact identifier, such that the composite study includes series and corresponding series identifiers from both the pre-merged first and second medical studies (Seliger et al.; col. 11, lines 59-65).

The obviousness of modifying the teaching of Seliger to include the Identifying, in accordance with a lexicon of Digital Imaging and Communication in Medicine (DICOM), a patient's related first and second medical studies to be merged (as taught by Applicant's admitted prior art) is as addressed above in the rejection of claim 5-16 above and incorporated herein.

C. Claim 26 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claim 26 is rejected for the same reasons given in the previous Office Action (paper number 6), and incorporated herein.

Response to Arguments

6. Applicant's arguments filed 12/14/2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Seliger does not teach to merge or add new medical information, according to a protocol attribute, of the first or second medical study into a composite study, Examiner respectfully submits that claim 1 recites

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"merging a patient's first medical study with a logically related or similar second medical study, to create a composite study"; Seliger teaches entering first and second data values into a medical database in a medical information system permits concurrent charting from different workstations and medical instruments. The new data values are stored in the medical database (composite study) and a correction history is recorded. The correction history contains information as to the update of the record with the first data value and second data value (col. 3, lines 6-23). The claim 1 continues "reconciling study identifiers of the first and second medical studies, wherein said merging includes an automatic adding of medical information, according to a protocol attribute, of the first or second medical study into the other medical study in the creating of said composite study", and paragraph 0012 of the specification of the application states that "merging a patient's first medical study with a logically related second medical study, such that medically context-specific information stored in at least one of the first and second medical studies is merged based upon a protocol of at least one of the first and second studies, the protocol being indicated by an attribute of at least one of the first and second studies." Seliger teaches automatically updating the flowsheet by an instrument or two instruments updating the same patient flowsheet at the same time. Examiner considers that updating the same patient flowsheet means that the first and second studies (or values) are merged (added together) according to a protocol attribute since they are related (or similar) parameters.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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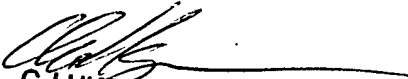
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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02/07/2007


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